S. HRG. 101-97

NOMINATION OF CONSTANCE J. HORNER AND MARY SHEILA GALL

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

CONSTANCE J. HORNER TO BE UNDER SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND MARY SHEILA GALL TO BE ASSISTANT SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

APRIL 21, 1989

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NOMINATION OF CONSTANCE J. HORNER AND MARY SHEILA GALL

FRIDAY, APRIL 21, 1989

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:00 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman) presiding.

Also present: Senators Packwood and Durenberger.

[The press release announcing the hearing follows:]

[Press Release No. H-18, April 13, 1989]

BENTSEN ANNOUNCES HEARING AND EXECUTIVE SESSION ON NOMINATION OF CONSTANCE HORNER FOR UNDER SECRETARY OF HHS

WASHINGTON, DC—Senator Lloyd Bentsen (D., Texas), Chairman, announced today that the Finance Committee will hold a hearing and executive session on the nomination of Constance Horner to be Under Secretary of Health and Human Services.

The hearing and executive session will be held on Friday, April 21, 1989 at 10 a.m. in Room SD-215 of the Dirksen Senate Office Building.

Ms. Horner is currently the Director of the United States Office of Personnel Management.

[Media Advisory No. 7, April 18, 1989]

The Finance Committee hearing and executive session to consider the nomination of Constance Horner to be Under Secretary of Health and Human Services on Friday, April 21, 1989 at 10 a.m. will include an additional nominee.

Mary Sheila Gall, nominated for Assistant Secretary for Human Development Services of HHS, also will appear before the Committee. Ms. Gall currently serves as Counselor to the Director of the Office of Personnel Management.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. This hearing will come to order. Our hearings this morning are to consider the nomination of Constance J. Horner, to be Under Secretary of the Department of Health and Human Services and Mary Sheila Gall to be an Assistant Secretary of the Department of Health and Human Services. We are very pleased to have them before the committee.

This committee's jurisdiction includes most of the major programs which the Department of Health and Human Services administers. In those new positions of yours, you will be responsible for overseeing some of the most important Federal programs in our government that directly affect millions of Americans—Social Security, Medicaid, Medicare, the FDC, AFDC, SSI. We have millions

of Americans who rely on those for their most basic needs. They have to be administered in an equitable and fair manner.

Not an easy job that you are taking on. That is particularly true in the current fiscal situation, an environment in which the administration of these very large programs requires that every dollar be accounted for with very little tolerance for inefficiency or error. And yet at the same time, the American people expect the very best quality of service.

The Congress has recently enacted several major new programs that are of special interest to this committee—welfare reform; the Medicare catastrophic program, which you're going to be responsible for overseeing. These are initiatives that are going to require your attention to assure that they are implemented correctly and with careful attention to the congressional intent. We trust that your Department will continue to consult with the Congress throughout the implementation of these new initiatives.

As we go along, I am sure with that kind of oversight and the work that you are doing that we will see that some changes have to be made as we test these new programs. We will be very interested in your comments and your recommendations as we bring out further implementation of them.

I now defer to my distinguished colleague, Senator Packwood, for any comment he might have.

OPENING STATEMENT OF HON. BOB PACKWOOD, A. U.S. SENATOR FROM OREGON

Senator PACKWOOD. I learned something from Ms. Horner just before we sat down, Mr. Chairman. The budget of HHS is the fourth largest government budget in the world, behind only the Soviet Union, the United States and Japan. I said, "Even bigger than California?"; and she said, "Yes, bigger than California." [Laughter.]

The CHAIRMAN. I did not know anything was larger than California.

Senator PACKWOOD. I discovered another fact when I met Miss Gall. She introduced me to Rosa, her daughter. Rosa asked her mother, "Is that Senator Bentsen?" When Ms. Gall said, "No, no, no, that's Senator Packwood; he's head of the Republicans," Rosa corrected her saying, "No, mamma, you are." [Laughter.]

The CHAIRMAN. Of course.

Senator PACKWOOD. Other than that, I have no opening comments, Mr. Chairman. [Laughter.]

The CHAIRMAN. I would say those were quite profound.

Senator Durenberger.

OPENING STATEMENT OF HON. DAVID DURENBERGER, A U.S. SENATOR FROM MINNESOTA

Senator DURENBERGER. Mr. Chairman, thank you for the opportunity. You struck the note that I wanted to strike, which is that the time I have been on this committee both under Republican and Democratic chairs, we have been constantly engaged in changing the role that public policy plays in meeting the needs of people through the social insurance system. In part, we have achieved

some dramatic changes here in the role the taxes play. But we have also begun the process of changing the way we look at social insurance in the largest sense.

The chairman mentioned welfare reform and the effort here to get rid of the concept of welfare as a way of including a lot of needy people in the social insurance system and to substitute something else for it. But if you go back to 1983 and Social Security Reform and the changes in the way we reimburse hospitals, what we're going to be dealing with here is changing the way we reimburse physicians in this country. Some of us are on the bipartisan commission, trying to come up with an answer for long-term care, which will have to come out of this committee. Health care for the uninsured 37 million people—a wide variety of people—differently situated in this country.

This committee, as long as I have been on it, has always been on the forefront of looking at things differently and we have had in my experience varying degrees of success with the executive side, or the administrative side, in sort of keeping up with us in a very non-partisan, bi-partisan way here—getting them to kind of keep up with us.

Mr. Chairman, I would say that both of the people before us today—but I can speak specifically to Ms. Horner because she has the more overarching or overreaching position here—I welcomed the possibility that Constance Horner would be willing to take this job with an enormous amount of relief even though I happen to be promoting another candidate for her job, that happened to be from Minnesota. But when I became persuaded that to do this well you needed somebody who is sort of an insider—in other words, that worked inside this system—to make it work. But if you had to find somebody inside the system who was never satisfied that the system worked well enough for the people it is supposed to serve, it would be Constance Horner.

So, I am just very, very pleased to have the opportunity today to be part of this hearing and to encourage this committee to report her out unanimously.

The CHAIRMAN. He is almost making a preemptive strike there.

Ms. Horner, we are very pleased to have you. If you would proceed with your comments.

STATEMENT OF CONSTANCE J. HORNER, NOMINEE FOR UNDER SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. HORNER. Thank you very much, Mr. Chairman; and thank you, Senator Packwood and Senator Durenberger.

I am very honored to appear before you today as the President's nominee for this position. I am especially honored to have the opportunity, if I am confirmed, to serve with Dr. Louis Sullivan, to meet his goals and the President's for the economic well-being, the security and health of the American people.

From my recent experience with Dr. Sullivan, I am convinced that his tenure as Secretary will be informed by a deeply knowledgeable and compassionate pragmatism, which will bring enormous blessings to the people whom the Department serves. I look

forward to supporting his efforts to meet the goals he and the President have established.

I hope that my now 8 years of experience as a Federal executive, will allow me to provide strong management underpinnings to the complex and difficult policy deliberations the Secretary confronts. I also hope that along with the excellent team Dr. Sullivan is assembling that I will be able to bring to the Department, the substantive background that I have gained during those 8 years.

As Director of VISTA, I had the opportunity to learn firsthand that the support of a strong family, good education or training, and the opportunity to work, are the great, simple antidotes to poverty. Simple to understand, but hard to achieve. That is why I am eager to assist in the implementation of the Family Support Act which Dr. Sullivan has declared to be one of his earliest and highest priorities.

We have Senator Moynihan, especially, to thank for this remarkable statute. We owe him a great deal of gratitude, I think, for persevering over the years and indeed over the decades.

The CHAIRMAN. I might interrupt to say that he wanted to extend his regrets of not being here. He had a medical appointment this morning that he felt he had to go ahead and fulfill.

Ms. HORNER. Yes, thank you, Senator. He and I had a very long and as you can imagine interesting—intellectually interesting—conversation last evening. But we should be very grateful to him for persisting to develop effective solutions in law to the problem of poverty.

As an Associate Director of OMB, I learned other lessons. Much like those this committee must so often confront, of fiscal reality and tough budgeting. I hope that those lessons will enable me to help the Secretary in the search for ways to contain health care costs and to work effectively with this committee to that end.

As OPM Director, I have had to deal with the dramatically rising cost of health care for Federal employees, just as any private sector employer must. I have had to wrestle with the issues of how much we can afford and who pays.

I have also dealt with the problems and the opportunities associated with employee long-term care insurance, AIDS in the workplace, drug abuse, the health effects of smoking, health promotion and child care. In working through most of these issues, OPM staff have had the assistance of very dedicated and knowledgeable HHS staff. I look forward to having the opportunity to move to the other side of that discussion, which I hope will continue.

In this and in other positions, I have been fortunate to have had the opportunity to learn from some very fine Federal managers, both career managers and political appointees. I hope that if I am confirmed, I can support and strengthen Dr. Sullivan's efforts to promote effective management within the Department. This is not an easy task, as I believe you, Mr. Chairman, and the members of this committee know better than anyone; and it is a task that is never completed. But it is well worth our time and attention because it makes all other accomplishments possible.

Mr. Chairman, the economic and social impact of the decisions made at HHS is extraordinary. The work this committee does by way of statute and oversight, and the work the Secretary does by

way of administration, regulation and advocacy, together make all the difference, at one time or another, to virtually all of us.

President Bush and Secretary Sullivan are determined to devote the resources of the Department to the creation of a kinder, gentler America. For them, that goal is a mission accepted. And if confirmed, I will do all that I can working with them and with you, to bring closer the day when they can say, "mission accomplished."

I thank you very much for this opportunity to appear before the committee and would be happy to respond to any questions you may have.

The CHAIRMAN. Thank you, Ms. Horner.

If you would proceed, Ms. Gall.

STATEMENT OF MARY SHEILA GALL, NOMINEE FOR ASSISTANT SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. GALL. Thank you, sir.

Mr. Chairman and members of the committee, I am honored to appear before you today as President Bush's nominee to be Assistant Secretary for the Office of Human Development Services. I look forward, if confirmed, to serving both our President and Secretary Sullivan.

I am especially honored that these two great and caring men who share a common vision for strengthening the family and increasing self-sufficiency among all Americans have selected me for this position.

I also look forward to working with the Congress, and especially this committee, for I know that we share common goals and objectives. Goals like helping children from impoverished backgrounds through early education, preventing child abuse, child neglect, and drug abuse, improving foster care and adoption services for children in need, helping families and communities meet the special challenges of our children with developmental disabilities and helping Native Americans to attain greater self-sufficiency. Although we may not always agree on the best ways to attain these goals, I am confident that we can work together in a spirit of partnership, honesty and mutual respect.

I believe that my more than 15 years of experience with the Federal Government have helped me to develop the skills and knowledge necessary to do the job. Following many years of working on Capitol Hill, I entered the executive branch first as Deputy Domestic Policy Advisor to then Vice President George Bush and most recently as chair of President Reagan's task force on adoption.

Thus, I have had the pleasure of working with both the executive and legislative branches of government on issues important to the people served by human development services. As important as these experiences have been, however, I believe that my work as a community volunteer on these issues has been even more important for the task that lies ahead.

Over the past 20 years I have started tutorial programs for young intercity children, worked with physically and mentally disabled children and adolescents, and child abuse victims. As a single-adoptive parent with two special needs children, I have

worked with adopting parents and have helped to place over 60 children in permanent and loving homes.

It is these personal experiences that have brought me here today, for it is one thing to discuss in the national arena child abuse statistics or disability programs, and quite another thing to comfort an abused child in your arms, or to teach Down's Syndrome teens to get on a bus and go to work, or to watch your own child struggle to meet his special challenges and to win everyday.

I still remember the names and the faces and the circumstances of all of the children over the years and they have touched my heart in a very special way. It is to them, and to those other millions of Americans whose lives are touched by the Office of Human Development Services that I dedicate our efforts.

I thank you for the opportunity to appear before you today and I would be happy to respond to any questions.

The CHAIRMAN. Thank you.

I am cautiously optimistic that what I see is expanded benefits for children's health in the President's budget. But I do have some concern with a couple of things that have gone with it. Where I see an expanded child health care program under Medicaid, nevertheless, I see a reduction in payments to the States for administration of it.

Do you see any evidence that the States are going to be able to take care of that kind of a reduction, and money for administration?

Ms. HORNER. Mr. Chairman, I believe that those expanded, or enhanced, matches which went above 50 percent were intended initially to get certain programs underway and that it was anticipated, that over time, they would be reduced.

The CHAIRMAN. What would be reduced?

Ms. HORNER. The enhanced match.

The CHAIRMAN. Okay.

Ms. HORNER. And that, indeed, is occurring now in the President's budget, and occurring for a very good purpose and one which I think that the States will want to support.

The CHAIRMAN. Let me ask you a second one. The mandating of Medicaid coverage for pregnant women and infants up to 130 percent of the poverty line, do you think that is sufficient when more than half of uninsured infants have income that is above this level?

Ms. HORNER. Well, I think, Mr. Chairman, that the President during his campaign indicated a desire for even stronger measures and that this should be viewed as a very good first step; and I think it is a very good first step.

The CHAIRMAN. Do you believe that expanded Medicaid eligibility is sufficient, or do you think we ought to find ways to encourage doctors to take more Medicaid patients?

Ms. HORNER. Senator, I have to confess, that is an issue I have not reviewed yet. I cannot give you a full response on that. Obviously, our goal must always be to assist all of those who are in need and to do what we need to do to make it possible for that to happen.

The CHAIRMAN. My concern is, as we squeeze down on compensation that you find more and more doctors choosing not to take Medicaid patients and that could give us some serious problems.

What do you think about the proposal—speaking about the President and campaign commitments and promises there—one of them that was unaddressed in that budget was that proposal allowing low-income uninsured individuals to buy into Medicaid. Would you comment on that?

Ms. HORNER. Yes, Mr. Chairman. I think that is a proposal which will undergo some serious review within the administration. And indeed I think very recently we have begun to undertake some conversations on that subject. I cannot at this point predict the outcome of that review, but it is a subject very much on our minds.

The CHAIRMAN. So you think it is an objective, very much under study with the potential of having something done there?

Ms. HORNER. Yes, Senator.

The CHAIRMAN. In line with the commitment made during the campaign?

Ms. HORNER. I cannot predict what the final details would be——

The CHAIRMAN. No, I am not asking that.

Ms. HORNER [continuing.] If such a decision were made. But it is something——

The CHAIRMAN. No, but I am asking the thrust of your opinion insofar as that is an objective that should be worked toward.

Ms. HORNER. Yes, Senator.

The CHAIRMAN. One of the things that is a concern to me and to many members of this committee is the problem facing rural hospitals and the closing of rural hospitals. I see that particularly in my own State and I have introduced legislation on that, along with Senator Dole and some 52 other Senators. We are trying to do something to eliminate the differential between the urban hospitals and the rural hospitals under Medicare and then to require a severity index requirement adjustment.

Would you comment on that piece of legislation if you have had a chance to study it?

Ms. HORNER. Yes, Senator; I have not had a chance to study the specific legislation. But I think there is a strong support for the thrust of the legislation. I think Dr. Sullivan is committed to finding ways to assure equitable payments to rural providers.

The CHAIRMAN. But that is as far as you have gone on it at this point?

Ms. HORNER. Well, there have been some more specific discussions. I think those discussions embody an understanding of the problem you have identified and looking at ways to meet that need.

The CHAIRMAN. I think we have to move rather quickly on it. I think we have almost a crisis in that area. We plan some very early hearings. So I would ask you to address your attention to it early on because we will want your advice and counsel and guidance on that.

Ms. Gall, back in 1986 I sponsored legislation that required the Department of Health and Human Services to issue regulations establishing an information system on foster care and adoption programs. I see that you have two chosen children. You are one up on me. I have one.

Ms. GALL. We have plenty of them, Senator.

The CHAIRMAN. I understand that.

Ms. GALL. Please let me know if you are interested. [Laughter.]

The CHAIRMAN. I think I am getting a little long in the tooth to be——

Ms. GALL. I do not believe that.

The CHAIRMAN [continuing.] Adding to the family at this point. But I must say it has been a source of great pleasure to my wife and myself, having had such a child.

But this law that I passed has been given a—or that I helped to sponsor—given a low priority by the previous administration. And as a result, the regulations which were due last December still have not been published. In the meantime, those of us with a responsibility to make national policy decisions affecting, I think, some of the most vulnerable children in the country are still without a lot of the information we need in regard to them.

Have you had an opportunity to look at that issue and what can we expect from you in regard to that?

Ms. GALL. Yes, Senator; I have.

As chair of the task force on adoption, one of the first questions I asked was: Where is the data, who are the kids, what kind of problems do they have, where are they located and so on. And the information just was not there. Many years ago Senator, we stopped the mandatory collection of data and went on a voluntary system. And now we do not have the accurate and full information that we need in order to make policy decisions.

The Department—HHS—has been negotiating for a long time over data collection and there are some legitimate concerns. For example, if you are talking about private adoption or about children in private foster care, there are legitimate concerns about individual and State responsibilities and rights. But that has to be weighed against how we help our children.

Data collection is a very important item to me and has top priority when I enter office, if confirmed by the Senate. I am very interested in it, Senator, for the same reasons you are.

The CHAIRMAN. Good. Thank you.

Ms. GALL. You bet.

The CHAIRMAN. Senator Packwood.

Senator PACKWOOD. Ms. Gall, this committee just finished 2 days of hearings proposed on child care legislation and I am hoping we will get a markup on it. One of the things in some of the bills is an expansion of some Title XX funds, and yet we really do not know now exactly on what States are spending their Title XX funds anyway, especially in terms of day care. As you are well aware, there is to be a report based on information collected from the States as to what they spend this money on.

Ms. GALL. Right.

Senator PACKWOOD. How soon do you think we can get that report?

Ms. GALL. Senator, the Family Services Act does have an annual reporting requirement for the States and HDS—Human Development Services—is now working on uniform definitions that the States may use in reporting their activities in terms of the number of people served and the kinds of services they have received. We

hope to finish our work on uniform definitions as quickly as possible so the States have something to work with when they report.

Senator PACKWOOD. Do you think it will give us the information we are looking for in child care so we can say, that out of the $2.7 billion in Title XX funds for fiscal year 1989, it appears that approximately $385 million were spent on——

Ms. GALL. I certainly hope so and that is the goal that we have in mind, Senator. You bet, yes.

Senator PACKWOOD. Ms. Horner, you just came from a position where you have had to look at the entire scope of employment in government. Now you are going to one where I think there are some unique employment problems because of the extraordinarily technical qualifications of some of the people you need, especially in the field of health and medicine.

Are you confident, given the current salary scale and considering what these people are worth on the outside, that you can attract to this Department the people you need?

Ms. HORNER. No, Senator; I am not. And indeed, I hope that I can assist Secretary Sullivan in making it possible to recruit and retain the scientific personnel that we need in order to do right by the public, and to do right by our research undertakings. Pay is an important part of that and as you know, that has been a subject very much under discussion here in recent months. I hope this discussion will continue and I hope that it will bear fruit over time and allow us to pay better salaries to people who would be sorely tempted to depart without those increases.

Senator PACKWOOD. Well, I wish you luck. I will support you. I do not know how we attract people in the science field—in the medical field—with the salaries we are paying when I consider what they are worth almost any other place. In fact, in many States they are paying substantially more than we are paying them.

Ms. HORNER. We have ridden for a long time on the attractiveness to strong scientific personnel of our facilities, our research opportunities, the opportunity for great discovery and public service, and those things all still operate at our National Institutes of Health, and we should be very proud of them. But we should also not count on their lasting forever in the presence of extraordinary financial temptation elsewhere.

Senator PACKWOOD. At the Office of Personnel Management you helped to develop some of the long-term care proposals. That is another subject that this committee has seriously wrestled with, and I think we do not want to get into anything where we do not have some handles on cost. We have been burned in the past by underestimating what health benefits would cost.

Can you give me some idea what you think we ought to be doing, if anything, as a government to attempt to alleviate a problem that is very significant to a relatively large portion of the elderly?

Ms. HORNER. Well, this is a problem which is significant now and we all know, I think, from looking at the demographics that it is going to become very significant in the long term. I looked at this at OPM because I was concerned about Federal employees' long-term care needs and we assisted Senator Wilson in developing a proposal which had 51 co-sponsors, I believe—a proposal which

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would allow us, in a cost effective way, to provide long-term care insurance for Federal employees. And I have hopes for that bill.

We need to look nationally at this issue and we need to look at the whole range of possible directions. We need to look at ways people can invest early in the needs they will have later. We need to look at opportunities for insurance. We need to look at public—private partnerships. We need to look at what the Federal and State governments can do. There is a range of incentives available to us. HHS and Treasury are studying this issue pursuant to the catastrophic act and I think that we will address ourselves to this problem in a serious way quite soon.

Senator PACKWOOD. Are you confident that it can be done by private enterprise? Incentives could be included as necessary, although I do not want to bankrupt the government.

Ms. HORNER. I have to await the results of a broader study than simply my own experience as OPM Director.

Senator PACKWOOD. What was your experience?

Ms. HORNER. Well, we developed a bill and when we began to look into this subject there were something like 60,000 or 70,000 private long-term care insurance policies available.

Senator PACKWOOD. Sixty or 70,000?

Ms. HORNER. Yes.

Senator PACKWOOD. Is that right?

Ms. HORNER. But by the time we finished, there were many more—into the hundreds of thousands. So this is a phenomenon which is growing. Some State governments are doing it. The State of Alaska offers it; the State of Maryland offers it; Aetna Insurance Co. offers it, and some others now.

I think the insurance companies are reluctant to market it because they do not know what is going to happen. I have had some hopes that the experience of this insurance for Federal employees, if it were made available, would provide the private sector some of the data it needs to begin to market it with more confidence.

It is a very complex area. I certainly do not have the answers at this point. But I am sure that the administration will be very interested in looking at this issue.

Senator PACKWOOD. Two more specific questions, Mr. Chairman, if I might. And I think some members might have some written questions they would like to submit.

The CHAIRMAN. There are quite a number of written questions to be submitted to both of them.

[The questions appear in the appendix.]

Senator PACKWOOD. When will the Department issue a regulation defining the criteria to determine whether mentally ill and mentally retarded individuals should be admitted to a nursing home?

Ms. HORNER. Yes, Senator; very shortly the Department will be issuing guidance to be followed later this year by a regulation. The statute is self-enforcing without regulation so things have gotten underway. But the Department has apparently discovered that this is an extraordinarily difficult and complex issue, and it has attempted to develop consensus by meetings with many State officials.

Senator PACKWOOD. Let me ask, have you met any issue that wasn't difficult and complex? [Laughter.]

Ms. HORNER. In all honesty, Senator, no, I have not.

But I think the Department feels that it is very important to try to develop as much consensus as possible, but also that the time has come to get on with it.

Senator PACKWOOD. The last question, and this is from Senator Roth.

Ms. Horner, the Deputy Director position at OPM is currently vacant. A person in that position would be the logical choice to assume responsibility for the day-to-day operations of the agency in your absence. What plans have you made to name a person to assume those responsibilities in the likely event that you are confirmed?

Ms. HORNER. Well, Senator, it would be up to the White House, representing the President, to make that determination since I would no longer be Director. I cannot name my successor as my acting Director. We do have a chain of delegation available for consideration by the White House which includes Director, Deputy Director, General Counsel, and then there are a few others.

Senator PACKWOOD. Mr. Chairman, thank you. I have no other questions. I think we are indeed fortunate to have both of you willing to serve. I appreciate not only your interest and the time, but the excellence that you both bring.

The CHAIRMAN. Let me ask you again a question, Ms. Horner, on the long-term care. Did I understand you to say a hundred thousand policies are offered?

Ms. HORNER. There are, I think, hundreds of thousands of people now under group long-term care insurance.

The CHAIRMAN. Oh.

Ms. HORNER. That is what I meant.

The CHAIRMAN. Yes, because I understood you——

Ms. HORNER. Oh, no. No.

The CHAIRMAN. No. No, it sounded as though you said policies.

Ms. HORNER. Oh, no; I apologize. It was hundreds of thousands of individuals.

The CHAIRMAN. As a fellow who used to be in the business, you shocked me. [Laughter.]

All right. I am glad you corrected that.

Ms. HORNER. If I could do that, I should be in the business.

The CHAIRMAN. I am glad to have the clarification.

Let me state that we have acted very expeditiously on the nominations. It took awhile to get them up here and then it took another couple of weeks for the paperwork, and the Congress is out of session, but we have stayed over because we wanted to expedite this. We will not have a quorum, obviously, but no time will be lost because we will be filing the reports. We could not file them before May 1 anyway.

But we are pleased to have you and that will conclude the hearings at this time.

Ms. HORNER. Thank you.

Ms. GALL. Thank you, Senator.

[Whereupon, the hearing was adjourned at 10:36 a.m.]

APPENDIX

ALPHABETICAL LISTING AND MATERIAL SUBMITTED

PREPARED STATEMENT OF MARY GALL

Mr. Chairman, and members of the committee, I am honored to appear before you today as President Bush's nominee to be Assistant Secretary for the Office of Human Development Services. I look forward, if confirmed, to serving both our President and Secretary Sullivan. I am especially honored that these two great and caring men—who share a common vision for strengthening the family and increasing self-sufficiency among all Americans have selected me for this position.

I also look forward to working with the Congress—and especially this committee—for I know that we share common goals and objectives. Goals like:

- helping children from impoverished backgrounds through early education;
- preventing child abuse, child neglect, and drug abuse;
- improving foster care and adoption services for children in need;
- helping families and communities meet the special challenges presented by children with developmental disabilities; and
- helping Native Americans attain greater self-sufficiency.

Although we may not always agree on the best ways to attain these goals, I am confident that we can work together in a spirit of partnership, honesty, and mutual respect.

I believe that my more than 15 years of experience within the federal government have helped me to develop the skills and knowledge necessary to be an effective Assistant Secretary. Following many years working on Capitol Hill, I entered the Executive branch—first as Deputy Domestic Policy Advisor to then Vice President George Bush, and most recently as Chair of the President's Task Force on Adoption. Thus, I have had the pleasure of working with both the Executive and Legislative branches of government on issues important to the people served by Human Development Services.

As important as these experiences have been, however, I believe that my work as both a community leader and volunteer on these issues has been even more meaningful in preparing me for this position.

Over the past 20 years, I have started tutorial programs for young, inner-city children, and worked with physically and mentally disabled children and adolescents and child abuse victims. As a single adoptive parent with two special needs children, I have worked with adopting parents and have helped place over 60 children in permanent, loving homes.

It is these personal experiences that have really brought me here today. For it is one thing to discuss, in the national arena, child abuse statistics or disability programs, and quite another to comfort an abused child in your arms—or to teach Downs Syndrome teens to get on a bus and go to a job—or to watch your own child struggle to meet his special challenges, and to win every day.

I still remember the faces and circumstances of all the children over the years, and they have seared my heart. It is to them—and those other millions of Americans whose lives are touched by the Office of Human Development Services—that I dedicate my efforts.

I thank you for this opportunity to appear before the Committee, and would be happy to respond to any questions you may have.

MARY SHEILA GALL

Mary Sheila Gall has been nominated by President Bush to be assistant secretary for human development services in the Department of Health and Human Services.

Miss Gall would administer HHS' Human Development Services, an agency whose programs serve the. nation's children, youth and families; the elderly, the disabled and Native Americans; and funding to states for social services to help low-income families.

Miss Gall comes to HHS from the Office of personnel Management where since February 1986 she had served as counselor to the director. In August 1987, she was named chair of the President's Task Force on Adoption, which identified barriers to adoption and explored methods to promote adoption.

During 1981-1986, Miss Gall was deputy domestic policy advisor in the office of then Vice President Bush. Prior to that she worked as a senior legislative analyst for the House Republican Study Committee. She worked as a consultant to the Reagan-Bush Presidential Campaign and the transition team (1980-1981) after serving as director of research in the George Bush for President Campaign during 1979-1980. During 1971-1979, she served in various legislative positions on the staffs of several members of the Senate and House of Representatives (Sen. James Buckley, New York; Rep. Jack Kemp, New York; and Rep. Tom Coleman, Missouri).

Miss Gall was born in Buffalo, N.Y., July 19, 1949. She received her bachelor of arts degree from Rosary Hill College in Buffalo in 1971.

Miss Gall is a single adoptive parent of two children. She has received a number of distinguished service awards in recognition of her leadership in service to children.

She and her two children reside in Arlington, Va.

March 1989

RESPONSES TO THE SENATE FINANCE COMMITTEE QUESTIONNAIRE

A. BIOGRAPHICAL

1. NAME: Mary Sheila Gall
2. ADDRESS: 412 South Cleveland Street, Arlington, Virginia 22204
3. DATE AND PLACE OF BIRTH: July 19, 1949—Buffalo, New York
4. MARITAL STATUS: Single
5. NAMES AND AGES OF CHILDREN: Walter Gall, age 10; Rosa Gall, age 5
6. EDUCATION: Rosary Hill College, Buffalo, New York; B.A. History and Government, 1971
7. EMPLOYMENT RECORD:
   Office of Personnel Management, Counselor to the Director—2/86 to Present
   Office of Vice President Bush, Deputy Domestic Policy Advisor—1/81 to 2/86
   House Republican Study Committee, Senior Legislative Analyst—4/80 to 1/81
   Reagan-Bush Presidential Campaign and, Transition Team Consultant—8/80 to 1/81
   George Bush for President Campaign, Director of Research—3/79 to 4/80
   Office of Representative Tom Coleman, Director of Special Projects and Casework—6/77 to 1/79
   Office of Representative Jack Kemp, Scheduler—3/77 to 5/77
   Office of Senator James L. Buckley, Director of Regional Office—12/71 to 1/77
   Legislative Assistant
8. GOVERNMENT SERVICE: Listed in No. 7, above.
9. MEMBERSHIPS:
   Current:
   Member, PTO Board, Cathedral of St. Thomas More School, Arlington, Virginia
   Den Leader, Cub Scouts Troop #194, Arlington, Virginia
   Previous:
   National Committee For Adoption, Member Special Needs Adoption Committee
   North American Council on Adoptable Children
10. POLITICAL AFFILIATIONS AND ACTIVITIES: Hatched. Financial contributions to individual Republican candidates.
11. HONORS AND AWARDS:
    The Warner-Lambert Company, Salute to the American Family: Work to Promote Adoption
    The National Committee For Adoption. Distinguished Service Award for Leadership on Adoption
    Smithlawn Home, Christian Service Award, for Outstanding Service to Children

12. PUBLISHED WRITINGS:
As Chairman of the President's Task Force on Adoption, I served as the lead for a report entitled, America's Waiting Children.
While a Congressional staffer, articles appeared under Members names.
13. SPEECHES: In the last three years, speeches have been given to child welfare, adoption, disability, and child care organizations. No written text. The enclosed testimony before Congress on April 26, 1988 will serve as an example of the kind of comments I have made.
14. QUALIFICATIONS:
Over 15 years of Federal Government service, including domestic policy issues pertinent to Human Development Services at the Department of Health and Human Services: adoption, foster care, child care, disabilities, Indian tribal programs, older Americans, drug abuse, child abuse, etc.
Over 20 years of voluntary work to constituencies served by Human Development Services.
—Mentally and physically disabled children, adolescents, and adults;
—Child abuse victims;
—Adoption (over 60 children);
Early intervention therapies for Down Syndrome children;
Special education;
Senior citizens;
And other activities.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR PRYOR

Question. In regard to the study conducted by Macro Systems, Inc. and the recommendation that the position of the Commissioner on Aging be combined with that of the Assistant Secretary of Human Development Services: Do you believe that it is important to the future of the Older Americans Act and to the delivery of services to older persons to have an independent Commissioner on Aging who can advocate directly to the Secretary of the Department?

Answer. I believe it is important to the Department to have a strong Commissioner on Aging who can advocate directly to the Secretary and serve as a visible and effective advocate for the elderly within the Department and with other agencies. The Older Americans Act is a sound piece of legislation which has made strides in assuring the delivery of services to older people since its enactment in 1965.

The Older Americans Act has made it possible to move, under the leadership of a number of Commissioners on Aging in a brief span of 24 years, from a relatively simple program of community service projects for older persons into a complex and highly differentiated "national network on aging" currently consisting of 59 state agencies, over 670 area agencies on aging, 136 tribal organizations and more than 25,000 local nutrition and supportive service providers.

The Act has also made it possible to assist in recruiting persons, including minorities, to enter the field of aging; to train professional and paraprofessional persons employed in or preparing for employment in fields having an impact on the aging; to provide technical assistance and other activities related to training; and to support research and demonstration projects to identify, assess and demonstrate new approaches and methods to improve the well-being and independence of older persons.

The Secretary recognizes that the role of the Commissioner on Aging is important to the success of programs and activities authorized by the Older Americans Act—including those at federal, state and local levels. He recognizes, as I do, the importance of direct advice of the Commissioner on Aging on policy matters and has continued that direct reporting relationship in these matters which was established by Secretary Bowen in January 1988.

I would also like to clarify that the study conducted by Macro Systems, Inc. did not include any recommendations regarding the Commissioner on Aging. The study conducted by Macro Systems, Inc. was to gather opinions regarding alternative methods of delivering support services to the Administration on Aging.

Question. If your answer to the first question is yes, is it your view that the Commissioner on Aging should be the person who would help develop a national aging policy for our nation under the Secretary's direction? In fact, is it appropriate for the Department of Health and Human Services to be in the role of the coordinator of all aging policies for our nation?

Answer. I believe that the Commissioner on Aging plays a crucial role in helping to develop national aging policy. The Department is committed to the Commissioner's playing a lead role, and providing policy advice in working with other federal

agencies to coordinate activity which develops and implements national policy on aging.

Question. If your answer to the first question is no, please provide an explanation as to why this is not important. Do you believe that aging policy does not need or merit the attention of an individual empowered by the Secretary to solely carry out the mandates of the Older Americans Act and to focus attention on the needs of our nation's elderly citizens? Do you believe that a combined position, particularly with the Assistant Secretary for Human Development Services—which has immense responsibility over a diverse array of human conditions—would ensure the leadership, focus and advocacy necessary to meet the challenges of a rapidly aging society?

Answer. As I stated, it is important to the Department to have a strong and visible Commissioner on Aging who can advocate directly to the Secretary of the Department. I believe that the role of the Commissioner on Aging is important to developing aging policy, to focusing attention on the needs of our nation's elderly citizens and to carrying out the mandates of the Older Americans Act. In addition, I believe the Commissioner can assist the Department in finding ways to tap into the valuable national resource represented by the aging population so that those older persons who wish to can have opportunities to serve, as well as to be served.

Question. Is it your view that the combining of the position of Commissioner on Aging and Assistant Secretary of Human Development Services is consistent with the 1987 amendments to the Older Americans Act (P.L. 100-175) and with the intent of Congress in elevating the position of the Commissioner? Please provide an explanation for the answer you provide.

Answer. The Department is not contemplating combining the position of Commissioner on Aging and Assistant Secretary of Human Development Services. Again, the Department believes that the position of Commissioner on Aging is an important one and is committed to ensuring that the Commissioner play a leading role in advising the Department on aging issues.

PREPARED STATEMENT OF CONSTANCE HORNER

Mr. Chairman and members of the Committee, I'm honored to appear before you today as the President's nominee to serve as Under Secretary of the Department of Health and Human Services. I am especially honored to have the opportunity, if confirmed, to serve with Dr. Louis Sullivan to meet his goals and the President's for the economic security, health and well-being of the American people.

I believe Dr. Sullivan's tenure as Secretary will be informed by a deeply knowledgeable and compassionate pragmatism which will bring enormous blessings to the people whom the Department serves. I look forward to supporting his efforts to meet the goals he and the President have established.

I hope that my eight years' experience as a Federal executive will allow me to provide strong management underpinnings to the complex and difficult policy deliberations the Secretary confronts. I hope also that, along with the rest of the excellent team he is assembling, I will bring to the table what is of value in my substantive background.

As Director of VISTA, I learned first-hand that the support of a strong family, education and training, and the opportunity to work are the great, simple antidotes to poverty. That is why I am eager to assist in the implementation of the Family Support Act, which Dr. Sullivan has declared one of his earliest and highest priorities. we have Senator Moynihan especially to thank for this remarkable statute; we owe him a great deal of gratitude for persevering over the years—indeed, the decades—to develop effective solutions in law to the problem of poverty.

As Associate Director of the Office of Management and Budget, I learned other lessons, the kind this Committee must so often confront, of fiscal reality and tough budgeting. I hope those lessons have made me better able to help the Secretary in the search for ways to contain health care costs. As OPM Director, I have had to deal with the dramatically-rising cost of health care for Federal employees, just as any private sector employer must. I've had to wrestle with the issues of "how much we can afford" and "who pays."

I've also dealt with the problems and opportunities associated with employee long-term-care insurance, AIDS in the workplace, drug abuse, the health effects of smoking, health promotion, and child care. In working through most of these issues, OPM staff have had the assistance of very dedicated and knowledgeable HHS staff, and I look forward to continuing to work with that excellent staff.

In this and other positions, I have been fortunate to have had the opportunity to learn from fine Federal managers, both career civil servants and political appoint-

ees. I hope that, if confirmed, I can support and strengthen Dr. Sullivan's efforts to promote effective management within the Department. That is not an easy task, and it is never done, but it is worth our time and attention, because it makes all else possible.

Mr. Chairman, the economic and social impact of the decisions made at HHS is extraordinary. The work this Committee does, by way of statute and oversight, and the work the Secretary does, by way of administration, regulation and advocacy, together make all the difference, at one time or another, to virtually all of us. President Bush and Secretary Sullivan are determined to devote the full resources of the Department to the creation of a "kinder, gentler" America. For them, that goal is a "mission accepted." If confirmed, I will do all that I can, working with them and with you, to bring closer the day when they can say, "mission accomplished."

I thank you for this opportunity to appear before the Committee and would be happy to respond to any questions you may have.

U.S. OFFICE OF PERSONNEL MANAGEMENT,
Washington, DC.

CONSTANCE HORNER, DIRECTOR, U.S. OFFICE OF PERSONNEL MANAGEMENT

Constance Horner is the Director of the United States Office of Personnel Management and President Reagan's chief advisor on Federal civil service personnel matters.

Since August 1985, Mrs. Horner has been responsible for recruiting, training and developing a work force comprised of 2.1 million Federal employees. She is charged with administering a $60 billion civil service payroll, as well as benefits programs, including life and health insurance and the $25 billion-per-year civil service retirement system. During her tenure, she has implemented a new pension plan, developed pay reform and long-term care insurance proposals, expanded the activity of the Federal Executive Institute, the Government's academy for its 7,000 senior executives, simplified and decentralized Federal hiring, and undertaken a major recruitment campaign.

Mrs. Horner has lectured at many of the nation's top public policy and business schools on managing the Federal Government. In addition, she has travelled extensively in Europe, visiting Federal employees working overseas, meeting with senior government officials and speaking on modern public management methods before government and academic groups. She has met with senior officials of Central America's democracies to highlight the importance of an effective civil service to democratic government.

Prior to this appointment, she served as Associate Director for Economics and Government in the Office of Management and Budget. She was responsible for approving the budget and legislative proposals of a number of Federal agencies, including the Departments of Treasury, Justice, Transportation, Commerce, Housing and Urban Development, and the Office of Personnel Management, the General Services Administration, the Small Business Administration, and many regulatory agencies.

She previously served as Director of VISTA—the Federal domestic anti-poverty volunteer program—and Acting Associate Director of ACTION, VISTA's parent agency. In 1981, she also served as Deputy Assistant Director of ACTION for Policy and Planning. Presently, she serves as a Commissioner on the President's Commission on White House Fellowships and on the President's Commission on Executive Exchange.

Mrs. Horner is a graduate of the University of Pennsylvania and holds a Master of Arts degree in English Literature from the University of Chicago. She has contributed articles on public policy for The Wall Street Journal, The New York Times, and other publications. She has also taught at secondary schools in the United States and at universities abroad. Her husband, Charles Horner, is Associate Director for Programs, United States Information Agency. They have two children.

(6/88)

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR PRYOR

Question. When you appeared before the Senate Governmental Affairs Committee during the last Congress in connection with that Committee's consideration of legislation establishing a Pay Equity Study Commission, you expressed concern over an

imbalance in the make up of the proposed Commission. When invited to offer suggestions as to how you might correct what you said was a problem, you wrote to Senator Pryor as follows:

> Unfortunately, I am obliged to decline your request for suggestions on broadening the Commission . . . the Administration's objections go far beyond objections to the Commission itself . . . (6/24/87).

As under secretary at HHS there will undoubtedly be instances in which you or the Administration are at odds with the Congress over a legislative proposal. Am I to understand, based on your reply to Senator Pryor, that we might expect you to refuse to assist us in improving what you perceive to be a bad bill?

Answer. If confirmed, I look forward to continuing to work with the Congress in the development of sound legislation. I believe that I have an established track record of being able to work with the Congress to resolve many issues having serious and difficult policy implications, from the initial FERS legislation I helped negotiate at both OMB and OPM, to RIF requirements, to the Combined Federal Campaign compromise.

In addition, OPM was actively involved in negotiations with the Congress over a number of other significant proposals, including the establishment of a leave sharing program for Federal employees, development of the Federal Personnel Improvements Act, and the expansion of OPM's special pay rate authority. In each of these instances, significant compromise occurred resulting in the legislative proposal being improved. There are numerous other areas where OPM worked very closely and cooperatively with the Congress to address mutual concerns, such as the FBI demonstration project, the Federal Retirement Application Processing Act, and removing the overtime pay cap on firefighters who have been so critical these past two summers in the Western regions of the country.

Finally, I have worked with Congress, and in some cases am still working with them, in such diverse areas as drafting a series of FERS technical corrections amendments, reforming the Federal Employees Health Benefits Program, and modifying our proposal to provide long-term care insurance to Federal employees and their spouses. These proposals represent the combined efforts of the Congress and the Administration to develop legislative proposals to address issues of concern to the civil service.

Although there is always legislation the basic design and intent of which conflict with Administration policy and that, therefore, must be opposed, I hope that I may have the opportunity to continue to work closely with the Congress to improve specific pieces of legislation.

Question. Earlier in the year, in connection with an inquiry into a decision to grant health insurance benefits to temporary Schedule C appointees, you were asked to provide copies of all relevant documents. After initially denying the existence of certain material, you offered to have staff negotiate the extent to which a Senate Subcommittee Chairman would have access to what you considered to be protected as "privileged attorney work product." (to Pryor 3/21/89) Existing law does not support the existence of any such privilege before a congressional committee. To our knowledge, the only basis for withholding documents from an officer of the Congress is a claim of Executive privilege (which itself is not absolute).

What will be your position as Under Secretary of HHS with respect to requests for documents by a congressional committee—will you assert privilege to withhold information?

Answer. As Under Secretary of HHS, I will make every effort to ensure that requests for information from the Finance Committee or any other congressional committee receive a comprehensive and timely response from the Department. As you state, executive privilege is the sole privilege which an executive branch agency may assert in order to withhold documents from a congressional committee, and I would expect that it would rarely, if ever, be invoked during my tenure.

For my response to the assertions in the preface to your question, relating to the document requests on health insurance benefit eligibility for new Schedule C appointees, I have attached a copy of my letter to you, dated April 21, 1989.

Question. HHS is certainly one of the most scrutinized of government agencies. Dozens of GAO reports are issued each year on the Department's operations. Last year, you were quoted in the Washington Post as saying that the "release of a report (on the Office of Personnel Management) only one week before the election . . . strongly suggests that the GAO has yielded to Democratic congressional pressure . . . this is another example of abuse by a Democratically controlled Congress. . . ."

The GAO report was not all that damaging. As a matter of fact, it was rather positive about your impact upon OPM. I have significant concerns as to your reac-

tion: Do you have any evidence of pressure having been brought to bear on that matter? Do you really believe that the Democratically controlled Congress abused the system in that case, and if you do, how so?

Moreover, is this the defense we can expect from HHS upon release of critical GAO reports?

Answer. As I noted in a letter to Comptroller General Charles Bowsher on November 3, 1988, discussing GAO's management review of OPM: "I have worked in two central management agencies and I know how much we need honest, objective assessment of our work to sustain our system of checks and balances." As Undersecretary of HHS, you may be assured that I will welcome and encourage sound, rigorous analysis of the Department's work, just as I welcomed it as Director of OPM, and that certainly includes analysis by the GAO.

The circumstances of the release of GAO's recent management review, however, were suggestive to me that in that instance, some at GAO had intentions other than objective analysis.

After receipt of the draft review on October 21, 1988—a draft we were enjoined not to circulate—we were told that we would have 30 days to respond in writing to GAO's comments. We welcomed that opportunity, because we believed the report to be flawed, both in its fundamental assumptions about the purpose of OPM, and about the specifics of our work. A serious public consideration of OPM's record clearly would have required simultaneous examination of GAO's account and of OPM's attempt to correct the record.

It is unfortunate that the report was released prematurely, and without the benefit of that examination. As I noted at the outset, our constitutional system of checks and balances very much depends on rigorous, objective assessment of the work of government agencies. As Undersecretary at HHS, I will, of course, cooperate fully with GAO or with any other agency seeking to improve the Department's performance through the honest, balanced analysis that the public deserves.

Question. A Washington Times article dated October 28, 1988, stated that you advised President Reagan to reject the Whistleblower Protection Act because:

> It would have made it hard for managers to make tough, efficient personnel decisions because of the bureaucratic nightmare of protracted appeals this bill would have created.

Do you support the concept of whistleblower legislation? The concept involves appeals and acknowledges the employee's right to due process. Do you not agree that appeal hearings may be necessary to protect the rights of employees?

In addition, your deputy testified at a hearing of the Committee on Governmental Affairs Subcommittee on Federal Services, Post office, and Civil Service (July 31, 1987) that:

> . . . we are troubled by the bill's requirement for the reinstatement of employees who prevail in the initial stages of MSPB appeals. The current system provides for full back pay, reinstatement of all benefits, and payment of attorney fees if the employee prevails in the final MSPB decision.

Did you then, and do you now, support the position taken by your deputy? How long do you feel an employee must wait for reinstatement of benefits during a protracted appeals process?

Answer. I wholeheartedly endorse the concept of whistleblower legislation, in order to better protect genuine whistleblowers from retaliatory treatment and to serve as a check on waste, fraud and abuse that might otherwise go unobserved and unremedied. I supported President Bush's recent approval of the Whistleblower Protection Act of 1989, which includes procedures allowing employees to challenge and appeal personnel actions which may violate their rights. Significantly, the new statute addressed constitutional and operational problems which led Attorney General Thornburgh and me to urge President Reagan's veto of a predecessor bill in 1988. It recognizes the need for balance between due process for federal employees and effective decision-making by federal managers.

Your question quotes a 1987 statement from James E. Colvard, then Deputy Director of the Office of Personnel Management, presented to the Senate Committee on Government Affairs, Subcommittee on Federal Services, Post office, and Civil Service. Dr. Colvard raised an important issue: what kind of interim relief should be available where an employee prevails in the initial administrative appeal stage before the Merit Systems Protection Board but is awaiting a final decision? Dr. Colvard's concern with S.508 as introduced, which I shared, was that interim reinstatement rights include a degree of flexibility, to assure that interim relief for an appealing employee not lead to disruption of the workplace.

The new Whistleblower Protection Act resolved this tension. Employees remain entitled to receive all pay and other benefits during the interim period between is-

suance of an initial MSPB administrative determination and a final decision. Agencies are to continue to employ such individuals during the interim period, but are allowed to place them in fully paid, non-duty status if the agency "determines that the return or presence of such employee or applicant is unduly disruptive to the work environment." This provision, sought by the Administration and assented to by the Congress, will well serve both agencies and employees, and I fully supported it.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR HEINZ

Question. Two of Secretary Sullivan's highest priorities cited at his confirmation hearing in February are of great personal interest to me as well. I refer to his commitment to strategies that encourage preventive health and to improve the effectiveness of medical decision-making (the Department's "Effectiveness Initiative").

What is your personal view on these two areas of health policy and what expertise do you believe you would bring to support any related efforts undertaken by Dr. Sullivan and the Department?

Answer. I strongly support Dr. Sullivan's commitment to the Medical Effectiveness Initiative. This initiative will help improve patient outcomes through research on what constitutes effective and appropriate health care. The information developed will be provided to those who most need and want it: providers, patients, employers, and insurers. Research findings will be incorporated into professional education programs and into medical practice. This initiative has the potential for saving lives and improving the quality of medical care.

While medical effectiveness is a new area for me, I know quite a bit about preventive health activities from my role as Director of the Office of Personnel Management. At OPM, we launched a variety of initiatives to promote and achieve a healthier Federal workforce, as well as to effectively deal with health-related workplace issues.

In the preventive health area, I directed a number of efforts which have considerably strengthened the Federal employee health program. These include authorizing agencies to use appropriated funds to establish health and fitness programs; developing a "fit kit" guide for setting up Federal health and fitness programs; establishing a new awards program, "The OPM Director's Awards for Outstanding Health and Fitness Programs;" and authorizing agencies to pay the cost of smoking cessation programs. OPM's most recent and potentially significant preventive health initiative is a demonstration which began this year to determine the most effective way of furnishing worksite health promotion and disease prevention programs in Federal agencies. This project, authorized by the Federal Employees Benefits Improvement Act of 1986, is being carried out in collaboration with HHS.

I also addressed several major health-related workplace issues while OPM Director. First, in response to the HIV epidemic, I issued in March 1988 comprehensive guidelines on AIDS in the workplace, covering both AIDS-related personnel issues and employee education programs. Second, as part of the drug free Federal workplace program, I issued model employee assistance guidelines as a key part of the government strategy to help employees with substance abuse problems. With respect to both AIDS and drugs, OPM provided a wide range of training, information, and policy guidance on how to effectively deal with these health issues in the workplace. Finally, under my direction, OPM conducted a thorough review of medical qualifications regulations and guidelines affecting Federal employment decisions, and issued new policies in March of this year.

Clearly, promoting wellness and helping maintain and improve the quality of health care in this country are very important tasks. I am strongly committed to both.

Question. As Under Secretary, what area of health policy or management would be highest on your list of personal priorities—that you would want to be remembered as having achieved during your tenure?

Answer. As Secretary, Dr. Sullivan defines the priorities; if confirmed, my task will be to help him implement them. He has identified several important ones in the health area, specifically, to improve the health of all Americans through improved health promotion and preventive health activities; by maintaining and enhancing a strong biomedical research effort; by improving access to quality health care, particularly for the disadvantaged and for minorities whose health status lags behind other Americans; and by ensuring solvency of our Medicare Trust funds and achieving the best value possible for their expenditures.

I will enthusiastically support these priorities using my expertise in the area of management of policy development, both within the Department of Health and Human Services and the Administration, and working closely with the Congress.

Question. As Director of OPM, you have been instrumental in moving an innovative legislative proposal that would permit Federal employees to transfer life insurance into long term care benefits.

As a member of the Bipartisan Commission on Comprehensive Health Care, I am interested in learning your broad view on how we should proceed in developing a long-term care financing package, what roles should be played by employers, private and public insurers and beneficiaries in providing long term care protection, and what components should be included in a long-term care system.

Answer. I am indeed proud that OPM took the lead in developing legislation to permit the offering of long-term care insurance to Federal employees. The bill, S. 38, was introduced by Senator Pete Wilson on behalf of himself and 50 other Senators, including Senator Heinz. It will permit Federal employees who have reached the age of 50 and participated in FEGLI for ten years or more to convert a portion of their life insurance to long-term care insurance. The Federal Government will continue to contribute the same amount it was contributing to the life insurance, while the employee will have to contribute a bit more—now estimated at $11.00 a pay period. Insurance for the spouse of the employee will also be offered, with the employee paying full cost.

If the bill is enacted, the new law will provide a significant breakthrough in the field of long-term care insurance. It will be one of the first offerings by a major employer of long-term care insurance to its employees, which will permit analysis of the savings to be gained from group offerings. It will combine life insurance, for which the needs decline with advancing years, with long-term care insurance, which is more likely to be needed as people grow older. The bill requires competition among insurance companies, which should hold back rates and provide better quality insurance, and leaves the inherent risks of offering such insurance in the hands of the insurer. While S. 38 is designed for public sector employees, it reflects some important principles expressed by President Bush and supported by Secretary Sullivan and myself for guiding long-term care policy.

- It is voluntary and flexible.
- It permits people to choose whether or not they need insurance and the type of protection they need.
- It encourages people to plan for their potential long-term care needs at a relatively early age when purchasing insurance protection is much more affordable.
- It lets people who can afford to pay for their own long-term care to do so, thus permitting scarce public funds to be targeted on people who cannot afford such protection.

President Bush is a strong believer in private sector participation in long-term care financing. His confidence is well founded. Only five years ago, there was virtually no private long-term care insurance available. Today, over 1 million policies have been sold by 105 companies.

One of the most important roles this Department can play in the area of long-term care financing is to continue to be a leader in researching the supply, demand and cost of long-term care under various options. We are now preparing a plan to address the long-term care questions raised by the Congress in the Medicare Catastrophic Coverage Act. Over the next three or four months, we will also be carefully examining a variety of proposals which have been made to extend the participation of the private sector in long-term care financing. For example, I want to understand as much as possible about the impact of providing tax incentives to stimulate private financing, particularly who will benefit and how much it may cost in tax revenues. I am also aware that there are consumer protection concerns surrounding the marketing of long-term care insurance. I would like to work closely with the National Association of Insurance Commissioners to determine if further safeguards are necessary.

Finally, we are pleased that the Bipartisan Commission on Comprehensive Health Care is also examining long-term care proposals and we have offered to help the Commission cost out the proposals they are considering. We hope the deliberations of this important Commission will also be guided by a belief in the potential of the private sector. We look forward very much to working with you and other members of the Commission in defining the best methods of meeting the long-term care financing needs of older Americans.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR DASCHLE

Dear Senator Daschle: Thank you for your letter dated April 24, 1989 forwarding the questions you had intended to ask at my Confirmation Hearing before the Senate Finance Committee on April 21, 1989.

I assure you I share your concerns for the health of Vietnam veterans and their readjustment and employment problems upon return from service.

My commitment to veterans and, in particular, veterans of the Vietnam era while at the Office of Personnel Management (OPM) is a matter of record. During my tenure, veterans issues received high priority and that priority was communicated to the Federal Executive Boards and to the OPM Regional Offices. My encouragement and support of Veterans Readjustment Appointment Authority (VRA) appointments was successful in opening more employment opportunities for Vietnam veterans. Our close cooperation with the Veterans Administration (VA) produced a video tape "A Little Accommodation" promoting the selection and hiring of disabled veterans as part of our new Career Awareness Theme. My quarterly meetings with the veterans service organizations (VSO's) were helpful in reaching mutual goals.

Certainly, the important research of the various Federal agencies on the subject of the long-term health effects of Agent Orange on Vietnam veterans will continue and you have my promise to do all in my power to assist in this vital research. I will learn more about the technical aspects of these issues as I begin to work with the HHS staff.

Thank you for bringing these important matters to my attention. You have my word that I care deeply for the Vietnam veteran and his or her family and will if confirmed to do all within my power to be of service.

Sincerely,

CONSTANCE HORNER, *Under Secretary-Designate.*

Enclosures

FOLLOW-UP ANSWERS TO QUESTIONS IN SENATOR DASCHLE'S LETTER OF APRIL 24, 1989

Question. Please describe your experience with or knowledge of the debate concerning the toxicity of dioxin or other toxic agents, including 2,4-D and 2.4,5-T, to which Vietnam veterans were potentially exposed. What would you see as the Department of Health and Human Services' proper role in further studies or administrative actions regarding these substances?

Answer. I am well aware of the intensity of the debate and the emotion that the issue of exposure to Agent Orange has aroused among Vietnam veterans and their families. I intend to give the subject my full attention and to be fully briefed on the previous activity of the Domestic Policy Council Agent Orange Working Group (DPC/AOWG). As you know, the Department has been very active in research and in policy deliberations regarding this issue, and I would expect to support a strong, continuing role of this sort for the Department.

Question. In the past, the Under Secretary of HHS has served as Chairman of the White House Agent Orange Working Group (AOWG), which falls under the leadership of the Attorney General through the Domestic Policy Council. The previous Under Secretary, Mr. Don Newman, led the AOWG during a time that the AOWG was perceived by many to be interfering improperly with many Agent Orange-related studies, including the Air Force's "Ranch Hand Study," whose Advisory Committee was appointed by the Secretary of Health and Human Services.

The Ranch Hand Study protocol requires that study analysis flow directly between the Ranch Hand scientists and the Advisory Committee. There were several breaches of that requirement while the 1984 "Baseline Morbidity Report" was being written at the Air Force. Also, following a February 6, 1984 Advisory Committee meeting, Dr. Robert Miller, the Chairman of the Advisory Committee, in a memo (attachment A) to the AOWG Chairman, Mr. Newman, asserted that the study analysis should flow from the Advisory Committee "through the Chairman of the (Cabinet Level) AOWG through the DOE representative on AOWG to the Air Force." I hope we can agree that this does not describe a direct flow of data analysis.

Many veterans, including me, are convinced that the Reagan Administration delayed and interfered with scientific efforts to get at the bottom of the Agent Orange issue. The government has been accused of implementing that policy, among other ways, by changing or violating study protocols.

Do you agree that adherence to protocol is an essential element of quality scientific work? Do you agree that the White House Agent Orange Working Group has no business getting involved in the detailed data analysis of a study that has already been marred by charges of government manipulation? Do you agree that the Agent Orange Working Group should avoid even an appearance of such manipulation?

Would you be more forceful than your predecessor in ensuring that the Ranch Hand Study protocol and other study protocols are followed? Can you pledge that you would not take part in such departures from the protocol?

Answer. I agree that adherence to protocol is an essential element of good scientific work and intend to see that the work of the Science Panel of the Agent Orange Working Group and the conduct of all U.S. Federal Government studies are continued in the best tradition of scientific integrity.

Question. After the same February 6, 1984, meeting of the Ranch Hand Advisory Committee, the minutes were prepared, signed by the Advisory Committee Chairman, Dr. Miller, and sent through the Assistant Secretary for Health (Dr. Edward Brandt) to the Air Force scientists. The minutes (attachment B) were dated February 21, 1984. They directed the Ranch Hand scientists to change the final conclusion of the Ranch Hand "Baseline Morbidity Report," which read, "This baseline report is not negative," to say that there were no effects "attributable to herbicide exposures" detected—a conclusion that was disputed at the time and has been essentially disproved by a 1988 Air Force report.

When I asked former Under Secretary Newman for a copy of the minutes of that meeting, I received minutes (attachment C) dated February 23 that did not include the direction to change the report's conclusion. I have asked the former Under Secretary to explain, and I have asked the Air Force to explain, but no one seems to be able to explain why there are 2 different versions of the minutes of the meeting.

First, the Advisory Committee gave the scientists very questionable advice that affected the conclusion possibly the most important statement in the document. Second, there were two versions of the minutes that were significantly and substantively different. Do you see this as a serious problem? Can you assure us that this kind of situation would not occur under your leadership? Can we trust that we will get genuine documents from you when we request them?

Answer. The Advisory Committee functions as a peer review group of the same character and function as any other under the aegis of NIH.

HHS staff advise me that the previous Under Secretary indicated he could not explain the two versions of the minutes but, that in reference to the wording, it is customary for reviewers to recommend changes for clarification; e.g., the double negative, "This baseline report is not negative." They indicate that in the context of what was known of the effects of exposure to Agent Orange, the study of the Ranch Hand personnel detected no findings "attributable to herbicide exposures," and that Ranch Hand personnel were especially selected for their military assignment, so they differ in many ways from other veterans, but not because of herbicide exposure.

I am told that the Advisory Committee has greatly improved the Study through its recommendations, made at the rate of about 15 a year, but that it does not "direct" the Ranch Hand Group; it advises and that there are bound to be differences of opinion about individual comments or recommendations.

In any event, I will do all I can to insure that both the appearance and the reality of integrity are maintained in this process.

Question. Similar stories can be told about CDC studies—delays, protocol changes, misrepresentation of data. One example: the Vietnam Experience Study found an excess in non-Hodgkin's lymphoma in the Vietnam veterans group, but didn't report it until after it published its study results in the Journal of the American Medical Association (JAMA). The CDC claimed they were late results and tried to downplay them. Many people who read the JAMA report believe there's no non-Hodgkin's lymphoma problem, when, in fact, there may be a very significant problem, as other studies strongly suggest. This has real implications for veterans and for doctors who are struggling to diagnose and care for veterans.

Would you work to ensure that studies that are released to the public and called "final" are really final and that they are represented properly? Do you think it is important for doctors caring for veterans and others potentially exposed to dioxin and other toxic chemicals to have access to as much information as possible about the possible adverse health effects of these chemicals? If you serve as the Agent Orange Working Group Chairman, will you promote such a policy? Will the buck stop with you?

Answer. I am concerned over your statements relative to the Centers for Disease Control (CDC) and the Vietnam Experience Study.

I believe Dr. James Mason, at that time Director of CDC and now Assistant Secretary of Health in this Department, addressed these questions, both in his testimony of May 12, 1988 and June 8, 1988 and his letters to the Chairmen and Ranking Minority members of the Senate and House Committees of Veterans Affairs (copies enclosed).

I would, in particular, draw your attention to Dr. Mason's letter of June 23, 1988 which clarifies the seeming differences in the findings of the Vietnam Experience Study concerning Non-Hodgkin's Lymphoma in Vietnam veterans.

The additional information concerning the interpretation of the seven cases of Non-Hodgkin's Lymphoma (NHL) are well explained. Furthermore, I would like to point out that each stage of these findings is subjected to careful peer review within CDC, then to peer review by the National Institute of Medicine of the National Academy of Sciences, and finally to peer review by the Journal of American Medical Association (JAMA) before being accepted by JAMA for publication.

You have my assurance that all studies of the Federal Government over which the AOWG has oversight will be released to the public in a responsible manner, and that if I am confirmed by the Senate I will work tirelessly to ensure that as much scientific information as possible is made available to the public and to Congress upon which sound policy decisions may be made. The issue of the possible long term health effects of Agent Orange on our Nation's Vietnam veterans will never be "final" or concluded until all the evidence is in and appropriate remedial action taken.

The Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide updated information from the Vietnam Experience Study about certain cancers which has become available since our testimony for the Senate hearings was prepared. An identical letter is being sent to Congressman Gerald B. Solomon. We have also communicated this information to the Senate Committee on Veterans' Affairs.

Since the testimony presented at the Senate hearings on May 12, 1988, we have completed the review of medical records in an effort to validate the cases of non-Hodgkin's lymphoma and lung cancer reported by Vietnam and non-Vietnam veterans in the Vietnam Experience Study telephone interview. Prior to the testimony, all of the records were not available. Based on the results of this validation, combined with the data from the mortality component of the Vietnam Experience Study, we have identified seven confirmed cases of non-Hodgkin's lymphoma in the Vietnam group compared to one confirmed case in the non-Vietnam group. As for lung cancer, we have identified one confirmed case in the Vietnam group compared to two confirmed cases in the non-Vietnam group. These numbers differ slightly from those reported during the hearing and represent the current and final data from the Vietnam Experience Study. Additional cases of these cancers may be identified in the future if additional mortality updates of these cohorts are done.

The data contained in the above paragraph were not part of the Vietnam Experience Study as published in the Journal of the American Medical Association. The original protocol stated that the number of these cancers in the two cohorts would be so small that it was necessary to construct a special study for these cancers. Thus, the Selected Cancers Study is being conducted. With heightened concern about non-Hodgkin's lymphoma in the past 6 months, we decided to try to obtain the medical records on the veterans who reported anything that could possibly be associated with this disease. We thus obtained 50 records, and the 8 cases cited above were identified. At the time the testimony was prepared for the Senate, not all records necessary to validate the findings had been received; thus, we reported three unconfirmed and three confirmed cases in the Vietnam veteran population and one confirmed in the non-Vietnam veteran population. The remaining records for validation were received on May 17. While the difference between seven and one appears substantial, the data cannot be interpreted with certainty because we did not obtain all medical records on all the veterans interviewed. The final interpretation of the data on non-Hodgkin's lymphoma awaits completion of the Selected Cancers Study.

With respect to the Selected Cancers Study, we plan to conduct a preliminary analysis of the data collected to date on non-Hodgkin's lymphoma and to submit this analysis to the Agent Orange Working Group Science Panel and the Office of Technology Assessment for peer review. Following these reviews, we could provide the findings to the House and Senate, noting the limitations of this preliminary analysis of the non-Hodgkin's lymphoma data. We anticipate that this process will take approximately 3 months. It should be noted that these data can only be considered preliminary, and the limitations may be so severe that it would not be wise to report them until the study is completed late in 1989 or early in 1990.

Sincerely yours,

James O. Mason

James O. Mason, M.D., Dr.P.H.
Assistant Surgeon General
Director

The Honorable Alan Cranston
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Because of the continued interest in the non-Hodgkin's lymphoma (NHL) data contained in our May 20 letter to you, we are providing additional information on the interpretation of these findings. An identical letter is being sent to Senator Frank Murkowski as Ranking Minority Member of the Senate Committee on Veterans' Affairs.

The finding from the Vietnam Experience Study (VES) of seven cases of NHL in the Vietnam group versus one case in the non-Vietnam group should be interpreted cautiously. Although the difference between these numbers is statistically significant (p=0.04), other points need to be considered before biologic significance is assumed. First, the result could still be due to chance given the enormous number of comparisons made in the VES. Second, the NHL cases are not homogeneous in regard to cell-type. For example, two of the Vietnam veterans had Burkitt's lymphoma, a type of lymphoma which is exceedingly rare in the United States and is thought to have a different origin from other non-Hodgkin's lymphomas. Third, the time of diagnosis should be considered. One of the Vietnam veteran cases was diagnosed with NHL while serving in Vietnam, while two of the other Vietnam veterans were diagnosed within 3 and 4 years of leaving Vietnam. Since environmentally related cancers usually exhibit a longer latent period than observed in these veterans, it is doubtful whether these "early cases" are related to military service. A fourth point to consider is the "expected number" of NHL cases in the two groups. Based on average annual age-specific U.S. incidence rates reported by the National Cancer Institute (SEER, 1973-1977), 3.9 cases of non-Hodgkin's lymphoma would be expected in Vietnam veterans and 3.5 cases would be expected among the non-Vietnam veterans. While these results show more cases than expected in the Vietnam group and less than expected in the non-Vietnam group, this comparison should be interpreted cautiously given the methodologic differences between SEER and the VES.

Finally, in judging the relevance of our finding, we examined results of other studies of Vietnam veterans and found these results to be inconsistent with respect to NHL. Most of the studies, though small, are negative. Only two prior reports indicate excess mortality from NHL--the Wisconsin State study and the Veterans Administration (VA) study. Furthermore, the VA results indicate an excess of NHL in Marines, but not in Army veterans. In fact, the VA findings show a <u>deficit</u> in NHL mortality among Army Vietnam veterans. It is difficult to reconcile our finding with the one based on Army personnel in the VA study. If there was a strong risk factor for NHL in Vietnam, we would expect to see a consistent indication of it in most, if not all, studies.

We hope this additional information is helpful in clarifying these findings.

Sincerely yours,

S/James O. Mason

James O. Mason, M.D., Dr.P.H.
Assistant Surgeon General
Director

Testimony of

James O. Mason, M.D., Dr.P.H.
Director, Centers for Disease Control
U.S. Public Health Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

before the

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON
HOSPITALS AND HEALTH CARE

In addition, NIOSH is doing a cross-sectional morbidity study of workers from 2 of these 14 plants. This study will include data from interviews of approximately 350 production workers with occupational risk of high exposure and from physical examinations of about 275 of the workers interviewed. Blood concentrations of TCDD will be measured to determine the probable extent of exposure to TCDD. TCDD levels are also being measured on a comparison group of unexposed individuals matched on age, sex, race, and neighborhood. Based on hyphotheses already in the published literature of animal and human studies related to dioxin exposure, the NIOSH study has been designed to identify effects of exposure to TCDD on reproductive, hepatic, neurologic, immunologic, and psychologic disorders. This study is to be completed in FY 1990.

Specific Conditions Related to Pending Legislation

I am aware of pending legislation, S. 1692 and S. 1787, proposing that lung cancer, non-Hodgkin's lymphoma, and certain undefined immunodeficiency syndromes be considered as compensable in Vietnam veterans. In presenting the data in these areas from the Vietnam Experience Study, I want to caution that the number of specific types of cancer are too few for drawing conclusions.

As for lung cancer, one unconfirmed case has been reported in the Vietnam group and three cases, two of which have been confirmed, in the non-Vietnam group. Also, six cases of non-Hodgkin's lymphoma, three confirmed, have been reported in the Vietnam group and one case, confirmed, in the non-Vietnam group. As mentioned earlier, these numbers are too few for drawing conclusions.

. . . . . .

Specific Conditions Related to Pending Legislation

I am aware of pending legislation proposing that lung cancer, non-Hodgkin's lymphoma, and certain undefined immunodeficiency syndromes be considered as compensable in Vietnam veterans. In presenting the data in these areas from the Vietnam Experience Study, I want to caution that the number of specific types of cancer are too few for drawing conclusions.

For non-Hodgkin's lymphoma, seven confirmed cases were identified in the Vietnam group compared to one confirmed case in the non-Vietnam group. Also, one confirmed lung cancer case was identified in the Vietnam group compared to two confirmed lung cancer cases in the non-Vietnam group. These numbers differ slightly from those reported during the May 12, 1988 Senate hearings and represent the current data from the Vietnam Experience Study based on the recent completion of medical record reviews. Additional cases may be identified in future mortality updates of these cohorts.

Additionally, we tested all of the examined men for cell-mediated immuno-deficiency and laboratory assays of T & B lymphocytes, and found no evidence of any differences between the Vietnam and non-Vietnam groups in these immune system measurements.

U.S. OFFICE OF GOVERNMENT ETHICS LETTERS SUBMITTED BY SENATOR BENTSEN

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, April 12, 1989.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC

Dear Mr. Chairman: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Mary Sheila Gall, who has been nominated by President Bush for the position of Assistant Secretary for Human Development Services of the Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Ms. Gall is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

FRANK Q. NEBEKER, *Director.*

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, April 6, 1989.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC

Dear Mr. Chairman: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Ms. Constance J. Horner, who has been nominated by President Reagan for the position of Under Secretary, Department of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflicts in light of its functions and the nominee's proposed duties. Based thereon, we believe that Ms. Horner is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

FRANK Q. NEBEKER, *Director.*

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